

REMARKS

Claims 1 through 16 are in the application, with Claims 1, 8 and 15 being independent.

The pending claims are subject to a restriction requirement. In particular, the Office Action groups the claims into Claims 1 through 7 (Group I), Claims 8 through 14 (Group II), and Claims 15 and 16 (Group III). Election of one of these Groups is required because the Groups are alleged to be distinct.

In response to the restriction requirement, Applicants provisionally elect Claims 1 through 7. Examination and allowance of the elected claims are respectfully requested.

This provisional election is made with traverse. Applicants request reconsideration of the restriction requirement in light of the following arguments, and pursuant to 37 CFR §1.143. As grounds for traversal, Applicants believe that Groups I through III are clearly not distinct from one another.

Restriction is proper only where an application contains claims directed to two or more independent or distinct inventions. As described in MPEP §806.05(f), the test for determining distinctness of claims directed to a product (i.e., the Group I claims) and to a process (i.e., the Group II claims) includes two prongs, and the claims may be deemed distinct if either prong is satisfied. The Group I and Group II claims were alleged to satisfy the second prong, which states “the product as claimed can be made by another and materially different process”. In particular, the Office Action alleges that a screen printing process is a process by which the device of the Group I claims can be made.

Applicants submit that the above-mentioned second prong is not satisfied because such a screen printing process cannot be seen as materially different from the Group II process claims. In fact, any screen printing process used to make the device of the Group I claims would necessarily include the process of the Group II claims. Of course, the Group II claims also read on other processes for making the device of the Group I claims.

The Office Action further alleges that the Group III claims are distinct from the Group I and from the Group II claims. Specifically, the Office Action alleges that the foregoing groups represent subcombinations that are usable together. Applicants submit that, under any

interpretation of MPEP §806.05(d), none of the Groups can be viewed as subcombinations that are disclosed as usable together.

Rather, Group I and Group III represent a subcombination and a combination as described in MPEP §806.05(c)II. (“Subcombination Essential to Combination”). In this regard, the separately claimed subcombination of Group I “constitutes the essential distinguishing feature of the combination” of Group III. Restriction therefore “must not be made” between Group I and Group III.

In summary, Group I is clearly not distinct from Group II or from Group III. Restriction between these Groups is therefore believed to be improper.

The Office Action also requires election of one of the alleged patentably distinct species respectively represented by FIGS. 2, 3 and 4. Applicants submit that the arrangements shown in these figures are not mutually exclusive and therefore do not represent different species. In other words, the arrangements of FIGS. 2, 3 and 4 may be used in a single embodiment. Some embodiments may employ only one or two of the illustrated arrangements. Even if FIGS. 2, 3 and 4 represent different species, which is not conceded, Applicants submit that Claims 1 and 15, among others, are generic to these “species”. In view of the foregoing, Applicants respectfully submit that the Office Action’s election requirement is in error and wholly inappropriate.

Nevertheless, in order to provide a complete response to the Office Action, Applicants provisionally elect Embodiment 1. It is believed that all pending Claims 1 through 16 are readable on the elected Embodiment.

C O N C L U S I O N

Applicants respectfully request withdrawal of the outstanding restriction and election requirements and examination of Claims 1 through 16 on the merits. In this regard, Claims 1 through 16 are believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience.

If there remains any question regarding the present application, or if the Examiner has any suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact the undersigned via telephone at (203) 972-0049.

Respectfully submitted,

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Date



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